

**LABOR CABINET**  
**Department of Workers' Claims**  
**(Repealer)**

**803 KAR 25:013. Repeal of 803 KAR 25:009 and 803 KAR 25:010.**

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.033, 342.260(1), 342.270(3), 342.285(1), KRS 342.316(3)(a), KRS 342.732(5), KRS 342.792

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260(1) requires the commissioner to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 342. KRS 342.270(3) requires the commissioner to promulgate an administrative regulation establishing procedures for the resolution of claims. KRS 342.033 requires the commissioner to prescribe the format and content of written reports. KRS 342.285(1) requires the commissioner to promulgate an administrative regulation governing appeals to the Workers' Compensation Board. KRS 342.316(3)(a) requires the commissioner to prescribe the format of the medical report required for claim resolution. KRS 342.732(5) requires the commissioner to promulgate an administrative regulation relating to retraining incentive benefits for coal workers' pneumoconiosis. KRS 342.792 requires the commissioner to promulgate regulations to obtain and forward chest x-rays for the consensus process under KRS 342.316. This administrative regulation repeals 803 KAR 25:009 and 803 KAR 25:010, as those administrative regulations are no longer needed because the consensus process under KRS 342.732 and KRS 342.316 was ruled unconstitutional for coal workers' pneumoconiosis claims and the procedures for injury and all other claims are to convert to an electronic Litigation Management System ("LMS"), which will be governed by 803 KAR 25:008.

Section 1. The following administrative regulations are hereby repealed:

- (1) 803 KAR 25:009, Procedure for adjustment of coal workers' pneumoconiosis claims; and
- (2) 803 KAR 25:010, Procedure for adjustment of claims.

DWIGHT T. LOVAN, Commissioner

APPROVED BY AGENCY: June 15, 2015

FILED WITH LRC: June 15, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, July 28, 2015, at 1:30 p.m. (EDT) at the offices of the Department of Workers' Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until Friday, July 31, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Charles E. Lowther, General Counsel, Department of Worker's Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, phone (502) 782-4464, fax (502) 564-0681.

**REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT**

Contact person: Charles E. Lowther

- (1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals:

- (1) 803 KAR 25:009, Procedure of adjustment of coal workers' pneumoconiosis claims; and

(2) 803 KAR 25:010, Procedure for adjustment of claims.

(b) The necessity of this administrative regulation: Pursuant to KRS 342.270(3), KRS 342.033, KRS 342.285(1), KRS 342.316(3)(a), KRS 342.732(5) and KRS 342.792 require the commissioner to establish procedures for the resolution of coal workers' pneumoconiosis claims and all other claims for workers' compensation benefits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulations repeal eliminates outdated and unconstitutional regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The repeal of the administrative regulations eliminates outdated and unconstitutional regulations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable.

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Injured workers, employers, insurance carriers, attorneys, self-insurance groups, and third party administrators.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The above entities will no longer use the regulations being repealed to litigate claims

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost will be involved.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Repeal of outdated and unconstitutional regulations will allow litigants and parties to use procedures to comply with constitutional decision and updated more modern procedures for litigating claims.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The Department of Workers' Claims will use normal budget to implement administrative regulation. There would be no cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims' budget will be used which is restricted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees or funding will be increased.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are affected.

(9) TIERING: Is tiering applied? Tiering is not applied because it applies to parties in an equal manner in workers' compensation claims.

#### FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All parts of government with employees

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.270(3), KRS 342.033, KRS 342.285(1), KRS

342.316(3)(a), KRS 342.732(5), and KRS 342.792.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. As an employer, there should be no costs due to the repeal.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue generated

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated

(c) How much will it cost to administer this program for the first year? No new administration costs

(d) How much will it cost to administer this program for subsequent years? No new administration costs

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: